HIGH COURT OF UTTARANCHAL AT NAINTIAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32(2)(b)

Description of the case.

W.P. No. 253 of 2004 (S/S)

Smt. Shashi Joshi
Vs.

Union of India

Approved for reporting

~~Not approved for reporting~~

Date of decision 05.5.2005

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

WRIT PETITION NO. 253 OF 2004

Smt. Shashi Joshi, wife of late Sohan Lal Joshi, resident of Village Gholtir, post Office Gholtir Tehsil-Rudraprayag, District Raduraprayag, Presently residing at "Dimari Bhawan" near Gopinath Temple Gopeshwar, District Chamoli.

.....Petitioner.

Versus

1. Union of India, through Secretary Post & Telegraph Department, Ministry of Communication & Information Technology, Sanchar Bhawan, Government of India, New Delhi.
2. Chief Post Master General, Uttaranchal Circle Dehradun.
3. Superintending of Post Offices, Chamoli Division at Gopeshwar. .....Respondents.

Sri Pankaj Purohit, leaned counsel for the petitioner.
Sri V.B.S. Negi, Assiatant Solicitor General of India appearing on behalf of respondents no. 1, 2, and 3.

Hon'ble Rajesh Tandon, J.

Both the parties have submitted that in view of paragraph 8 of the counter affidavit, where it has been mentioned that the case of the petitioner had not yet been closed and not rejected finally and therefore, both the parties have agreed that let the writ petition be decided finally directing the respondents to finalize the scheme for appointment on compassionate ground expeditiously.

Briefly stated, the husband of the petitioner namely late Sri Sohan Lal Joshi was posted as Postal Assistant under the respondent no. 3 in Head Post Office Gopeshwar, District Chamioli.

According to the petitioner, Sri Soban Lal Joshi was a confirmed employee of the respondents and put in a continuous service of nearly 26 years. He died on 23rd February, 2001 at about 6:30 A.M. in District Hospital Gopeshwar while he was still in service.

Learned counsel for the petitioner has submitted that the deceased has left three daughters and three sons and as such she has lost bread-earner in the family and in order to tide the difficulties and misfortune, which has fallen suddenly, the petitioner submitted her application for giving her compassionate appointment in place of her husband alongwith all the requisite papers in the month of July, 2001. The application of the petitioner was duly forwarded and on 27th January, 2004, it was informed by the respondent no. 2 that her application had been rejected. The petitioner has filed the present writ petition challenging the said order and simultaneously he has also prayed for a mandamus commanding the respondents to give appointment to the petitioner on compassionate ground with the respondents department under the Dying in Harness Rules.

A counter affidavit has been filed by the respondents, where it has been stated as under:-

"That the contents of para 8 of the petitioner are admitted being matter of record. It is submitted that the orders dt. 27th January, 2004 were subsequently modified vide the CPMG Dehradun letter no. Rectt./DC-2/1/2001 dt. 3/4 March, 2004. These modified orders were also communicated to the

petitioner vide the SPOs Chamoli letter no. B-2/48/Shashi Joshi/2001 dt. 18th Mar 2004, where in the petitioner was informed tat the case of the petitioner had not been closed and not rejected finally."

As it appears from the aforesaid paragraph, that initially on 27th January, 2004, the application of the petitioner was rejected but the same was modified on *3/4* March, 2004 informing the petitioner that the case of the petitioner has not been closed completely.

Further in paragraph 10 of the Counter Affidavit, it has been mentioned that there was only one vacancy in PA (Postal) cadre for direct recruitment under the 5% quota for compassionate appointment and against this vacancy a candidate has already been approved.

Further in paragraph 11,12 and 13 of the counter affidavit, the respondents have made following averments:

"*Thus, such appointment are subject to the availability of the vacancies and cannot be claimed as a matter of right. Moreover, it is reiterated that the petitioner's claim has not yet been rejected and not finally closed.*"

"*It I again stated that her case has not yet been rejected and not finally closed and the petitioner has already been informed in this regard.*"

"*That in reply to the contents of paragraph 14 of the petition, it is reiterated that the order dt. 27th Jan 2004 has already been modified vide the order dt. 3/4 March, 2004 and the petitioner has been informed about this.*"

From the perusal of the record, it appears that according to the own case of the respondents, the matter of appointment on compassionate ground is still pending with the respondents.

In ***Smt. Sushma Goasi and others v. Union of India and others, 1989(4) SCC 468,*** the Apex court has observed that the cases related to the compassionate appointment have to be disposed of speedily. Observations of the Apex Court in the case of ***Smt. Sushma Goasai*** (Supra) are as under:-

"We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground, is to mitigate the hardship due to death of the bread earner in the family. Such appointment should therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant.

In the result, we allow the appeal and in reversal of the order of the High Court, we direct respondent 2 to appoint Sushma Gosain appellant in the post to which she has already qualified. We further direct that she shall be appointed in an appropriate place in Delhi itself. The appointment shall be made within three weeks from today."

Considering the aforesaid principles, I direct the respondents to consider the appointment of the petitioner and finalize the papers as mentioned in paragraph 8, 11, 12 and 13 of the counter affidavit in accordance with the statutory regulations contained by the department and keeping in view

the family status of the petitioner within a period of two months.

In view of the aforesaid observation, the writ petition is disposed of.

(Rajesh Tandon, J.)

Dated: 05.05.2005
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